UNITED NATIONS

General Assembly

FORTY-NINTH SESSION

Official Records

THIRD COMMITTEE
43rd meeting
held on
Friday, 25 November 1994
at 3 p.m.
New York

SUMMARY RECORD OF THE 43rd MEETING

Chairman: Mr. CISSÉ (Senegal)

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Distr. GENERAL
A/C.3/49/SR.43
12 December 1994

ORIGINAL: ENGLISH

94-82506 (E)

The meeting was called to order at 3.25 p.m.

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(d) COMPREHENSIVE IMPLEMENTATION OF AND FOLLOW-UP TO THE VIENNA DECLARATION AND PROGRAMME OF ACTION (continued) (A/C.3/49/5, 8 and 10)

1. Mr. PARSHIKOV (Russian Federation) said that his country based its foreign policy on the principle of the universality of human rights and fundamental freedoms and rejected the view that guaranteeing human rights was an exclusively internal affair of States. Although it was necessary to take various characteristics and economic circumstances into consideration, the use of double standards was inadmissible. The United Nations had a special role to play in promoting and protecting human rights. Its activities in that field should become part of the Organization's general efforts to prevent and settle conflict situations and ensure peace and development. It was obvious that strengthening peace and security by ensuring human rights was also a prerequisite for development.

2. There was a need to ensure closer cooperation between the United Nations human rights mechanisms and the Security Council. The High Commissioner for Human Rights could play an important role in that process and could report regularly to the Council. By establishing closer cooperation between the Centre for Human Rights and the Department of Political Affairs, it would be possible to integrate the human rights machinery into the early warning system for situations that might threaten international peace and security.

3. In situations involving armed conflict and confrontation, a human rights component should be included in United Nations peace-keeping operations. Cooperation between the Centre for Human Rights and the Department of Peace-keeping Operations should be enhanced for that purpose. The time had come to consider the establishment of more effective mechanisms for exerting influence

on dictatorial, authoritarian and repressive regimes that blatantly and systematically violated human rights. The possibility of making use of the means at the disposal of the Security Council in that regard should not be excluded.

4. The system of international human rights monitoring procedures and mechanisms must be radically improved. States should report punctually on their compliance with their obligations under the International Covenants. Greater weight should be given to United Nations decisions on cases involving human rights violations, and the principle of mandatory cooperation with special rapporteurs, working groups and experts should be established. His delegation called upon all States that sought to enhance the effectiveness of United Nations monitoring mechanisms in the field of human rights to demonstrate their openness and invite on their own initiative thematic special rapporteurs and special representatives of the Commission on Human Rights.

5. Russia commended the activities thus far of the United Nations High Commissioner for Human Rights. Although his report (A/49/36) demonstrated that much useful work had been carried out, a great deal remained to be done. The High Commissioner had an essential role to play in improving the United Nations human rights mechanisms, primarily through stronger monitoring and preventive functions and, inter alia, by putting pressure on violators of the rights and freedoms of individuals. He should also make objective, impartial analyses of human rights situations in the world and put forward practical proposals for remedying them. Accordingly, it was essential to provide the High Commissioner's Office with greater human and financial resources to enable him to carry out his activities.

6. His delegation noted with satisfaction that the High Commissioner's visit to the Baltic countries had established a new basis for continuing the dialogue on human rights questions in those countries and had increased their readiness to engage in a constructive dialogue. Nevertheless, the sections of the High Commissioner's report dealing with Latvia and Estonia did not reflect the complex situation there. That was apparently due to the fact that, as the High Commissioner had himself observed in presenting his report, it was not always possible for him to include in an official report what he might have said in an informal meeting. Despite some steps by the Governments of Latvia and Estonia, the situation with regard to the rights of people who were not of Latvian or Estonian nationality remained unsatisfactory in those countries. Citizenship and language laws were sometimes applied by bureaucrats in a completely arbitrary manner that was in blatant violation of those laws. The former Latvian Minister for Human Rights, who had resigned in protest at the flagrant human rights violations in that country, had described such acts as massive violations occurring throughout the country in implementation of the policy of a single political group.

7. The Russian Federation sincerely hoped that the independent national human rights policy provided for under Latvia's National Human Rights Plan would make it possible to deal objectively with the numerous complaints by so-called "non-citizens" of violations of their rights. Estonia should heed the

recommendation by the High Commissioner that it draw up a similar plan and establish a national human rights commission.

8. The Russian Federation consistently advocated increased cooperation between United Nations human rights bodies and the relevant bodies of the Conference on Security and Cooperation in Europe (CSCE) and other regional organizations. Such cooperation should provide for exchanges of information, coordinated measures for studying situations in specific countries on-site, and coordination of the activities of fact-finding missions. He noted with satisfaction that regular cooperation in that area had been established between the High Commissioner for Human Rights and the CSCE High Commissioner on National Minorities. His delegation also noted with keen interest the proposal put forward by the United States at the current CSCE review conference in Budapest to include CSCE in the preparations for and the holding of the upcoming conference on the problems of refugees, returnees and displaced persons in the area of the former Soviet Union, to be held under the auspices of UNHCR.

9. In ensuring human rights, the Russian Federation was engaged in the complex process of bringing its legislation into line with the stringent international standards in that field. His country was aware of its own shortcomings and the obligation to overcome them. Its programme of action in the field of human rights, drawn up in accordance with the recommendations of the World Conference on Human Rights, was to be approved in the near future by the President of the Russian Federation. The programme of action envisaged a broad range of measures to bring about a radical improvement in the human rights situation in his country, on the basis of the Constitution and of Russia's obligations under international law. Its basic aim was to establish a civil society in the country. Russia attached particular importance to imbuing society with respect for human rights; bringing human rights legislation into line with international standards was essential to that effort. The Russian Federation was taking active steps in that direction and would not swerve from that course.

10. Mrs. ROMULUS (Haiti) expressed appreciation for the report of the Special Rapporteur on the situation of human rights in Haiti, which gave an accurate picture of the flagrant violations perpetrated in Haiti over the pasty year.

11. Since the return of President Aristide, however, a new human rights situation prevailed: the fundamental rights which had long been flouted under the military regime had been entirely restored. Learning to live in a democratic system was not without difficulties, however. Separating the functions of the police and the army was the subject of a bill currently before Parliament, and the Government had decreed the dissolution of the rural police whose members had been responsible for numerous crimes and acts of repression. The disarmament of paramilitary groups was also progressing.

12. The international community had given Haiti a priceless gift: the recovery of its people's dignity. Without the help of multinational forces, the Haitian people could not have succeeded in restoring a climate of peace. The new Government would work to strengthen democratic institutions, and it was planning a literacy and education campaign to give the people a better understanding of

public affairs. It intended to instil such values as tolerance and respect for the rights of others. In that connection, she welcomed the plans for a United Nations decade for human rights education.

13. Her delegation hoped that the international community would continue to provide assistance to her country and that the International Civilian Mission to Haiti would be deployed there once again: its mere presence had, in the past, greatly alleviated what could have been even more serious situations.

14. Mr. SIDDIG (Sudan) said that as a result of the profound changes which had taken place in recent years, the international community now had a new set of priorities. Peace-keeping, humanitarian assistance and human rights occupied a central role. However, the consideration of such issues within the United Nations system was not devoid of political overtones reminiscent of the cold-war era, particularly in the case of human rights.

15. The Commission on Human Rights had become increasingly important over the years, but his delegation felt that the performance of the Commission and its subsidiary bodies left much to be desired. Since the end of the cold war, Western countries had focused considerable attention on its activities, attempting to transform it into a vehicle for their own political and strategic objectives by taking advantage of some lacunae in its rules of procedure and working method. The Commission had, in the process, become more selective in its approach to human rights abuses, less democratic in its decision-making, biased in its staff selection procedures and insensitive in the way it held its meetings.

16. A case in point was the forty-ninth session of the Commission, which had been strongly criticized by third world countries and had prompted the adoption of resolution 1993/98 entitled "Rationalization of the work of the Commission". Regrettably, the word "rationalization" had been interpreted differently by the Western countries and the members of the Movement of Non-aligned Countries participating in the relevant working groups. While the latter had called for a comprehensive rationalization of the Commission's agenda and working methods, the Western group had proposed a piecemeal approach. Similarly, in a spirit of cooperation, the Countries of the Non-Aligned Movement had affirmed that the Commission's work should be based on the principles of impartiality, objectivity and non-selectivity in considering all human rights issues, whereas the Western group had been reluctant to embrace change, advocating the same techniques, such as investigation pressure, criticism and condemnation, that had reduced the Commission's effectiveness.

17. Such an approach was not in keeping with the Charter of the United Nations, which provided the legal basis for the work of, inter alia, special rapporteurs, special representatives and experts. The ad hoc development of those special human rights procedures had adversely affected their credibility and impartiality. He was particularly concerned about the appointment of country rapporteurs, whose performance had become highly questionable, not least because of the geographical imbalance in their selection and appointment. The Commission's failure to provide guidelines for their work, a code of conduct and

criteria for the admissibility of communications, as well as the absence of any mechanism for the regular review and supervision of their activities, meant that they were beginning to assume responsibilities which exceeded their mandate. That situation was illustrated by the case of the Special Rapporteur on human rights in the Sudan, who sided openly with opposition factions and participated in their activities, in flagrant violation of his mandate. The support given to him by Western Governments and the lame excuses offered by the Centre for Human Rights for his behaviour merely fuelled the growing scepticism among third world countries regarding the Commission's seriousness of purpose.

18. The politicized approach taken by the Commission on Human Rights to country reporting was reflected in two ways: the way in which special rapporteurs were appointed, and the system of requesting that an interim report be submitted to the General Assembly and a full report to the Commission. The latter system ensured that the country in question was subjected to continuous adverse publicity, as well as international pressure and censorship, while the absence of transparency in the procedures for selecting and appointing special rapporteurs had aroused suspicions that they were biased in favour of the policies and objectives of the Governments which nominated them. In that connection, he quoted from a recent statement by a member of the British House of Lords to the effect that the attitude of certain Western countries to human rights observance tended to be formed by perceived foreign policy interests and that those countries had simply decided to make an example of the Sudan.

19. His delegation was extremely concerned at the escalation of xenophobia in some European countries and called upon the relevant authorities to fulfil their responsibilities for protecting the lives of foreigners in their territories who were the targets of racist violence. The situation of orthodox Muslim girls, who were subjected to harassment and discrimination on account of their traditional dress, was of particular concern. Moreover, the treatment accorded to refugees and asylum-seekers was contrary to the internationally recognized criteria for their assistance and protection. In that connection, he drew attention to United States policy towards Haitian and Chinese boat people, which, as demonstrated by a recent Human Rights Watch report, violated several articles of the International Covenant on Civil and Political Rights.

20. The statement made by the representative of Germany on behalf of the European Union seemed to indicate that the latter appointed itself a custodian of human rights. Amnesty International and other similar non-governmental organizations had compiled substantial material on human rights violations in Europe, which had not been brought to the attention of the Third Committee. There seemed to be a conspiracy of silence, and human rights issues were being exploited to discredit certain countries with which the West did not enjoy good relations.

21. He expressed appreciation for the report by the representative of the Secretary-General on internally displaced persons and concurred with the view that greater human and material resources should be allocated to enable him to fulfil his mandate. His Government maintained that internally displaced persons were citizens of the country concerned and as such should enjoy all the rights

and obligations of citizenship. Their protection was solely the responsibility of their national Governments, and international humanitarian assistance should therefore be directed through the Governments concerned.

22. Ms. MAKHEKHE (Lesotho) said that she wished to bring the international community up to date on developments in Lesotho since the holding of general elections in March 1993. The new Government faced the difficult task of protecting the nation from the effects of subversive and belligerent action by certain groups, while guaranteeing freedom of expression, movement and assembly, as provided by the Constitution. In the free and fair elections held under the supervision of United Nations observers, all constituencies had been won by the Basotholand Congress Party (BCP). Although it had offered seats in the Senate to all opposition parties, the former ruling party, the Basotholand National Party (BNP), had declined.

23. In January 1994, the army had given the Government an ultimatum, demanding a 100 per cent salary increase by the end of February. Shortly thereafter, a serious conflict had erupted between political factions within the army, some of whom had called for the return to power of BNP. Fortunately, there had been a positive response by the United Nations and neighbouring southern African countries to the Government's appeals for assistance and the crisis had been defused. Following consultations with the Presidents of Zimbabwe, Botswana and South Africa, a task force had been established to recommend appropriate action.

24. Several months later, a group of soldiers had abducted four cabinet ministers and assassinated the Deputy Prime Minister. Thanks to concerted international efforts, the other ministers had eventually been released. The Government of Lesotho had made further appeals to the United Nations to monitor the situation in the country, where elements were not only threatening the newly established democracy but also violating human rights. The culmination of that process, in August 1994, had been the decision by King Letsie III to suspend certain sections of the Constitution, thereby dissolving Parliament, the Government and the Council of State. Following vigorous objections by the Government, a general strike, international pressure and the mediation of the southern African countries comprising the task force, constitutional order had eventually been restored and the King and the Prime Minister of Lesotho and the Presidents of Zimbabwe, Botswana and South Africa had signed an "Understanding of measures and procedures".

25. Her delegation appealed to the international community to continue monitoring the situation in Lesotho. The Government intended to follow up the task force's recommendations with a view to solving all national problems harmoniously. A four-member cabinet subcommittee had been set up to ensure that the security forces remained neutral and that the rule of law was upheld. That would be achieved through appropriate seminars, confidence-building measures, restructuring and training programmes. The services of a United Nations consultant had also been sought to look into ways of broadening the democratic process, on the basis of a national dialogue, and incorporating the monarchy into it.

26. She stressed the importance of the mechanism of the Organization of African Unity for conflict prevention, management and resolution, as well as preventive diplomacy, peacemaking and peace-building at the regional and international levels. The United Nations should establish a universally acceptable criterion for the detection of potential conflicts.

27. In Africa, regional action was imperative to halt the threat of militarism. African Governments should reduce the size and budgets of their armed forces and educate them on constitutional legality, human rights and international humanitarian law. Lessons had to be learnt from events in Rwanda.

28. In conclusion, she welcomed the signing of the Lusaka Protocol between the Government of Angola and the União Nacional para a Independência Total de Angola (UNITA) and the holding of multi-party elections in Mozambique. She looked forward to peace and democracy in the region, which should create a stable political climate for development and human rights.

29. Mr. WANG Xue Xian (China) said that his country welcomed the efforts by the international community and the United Nations human rights bodies to promote and protect human rights. It was regrettable, however, that racism, racial discrimination, xenophobia, colonialism and foreign aggression and occupation continued to exist. Moreover, many developing countries, particularly those in Africa, were plagued by worsening economic conditions and poverty, and some developed countries were trying to use that situation and their own economic superiority to impose their political systems and values on developing countries. The politicization of human rights and the application of double standards were relics of the cold war and posed huge obstacles to international cooperation, in many cases reducing the promotion and protection of human rights to a mere slogan. In addition, the proliferation of human rights mechanisms had resulted in overlapping and inefficiency, which further hampered international cooperation and created an atmosphere of confrontation in the field of human rights.

30. The Vienna Declaration and Programme of Action should be viewed as an interrelated and indivisible whole. All their recommendations should be accorded equal importance and be implemented comprehensively. The universality of human rights should not be emphasized at the expense of the special characteristics of each country and region, however. Given the different political systems, levels of development and cultures in the world, it was only natural to adopt different approaches to the promotion of human rights. International cooperation based on the purposes and principles of the United Nations Charter and on mutual respect and equality was the only way to enhance international understanding. Setting up one group of countries as defenders of human rights and another as violators distorted the facts, ran counter to the principles of balance and objectivity and could not be tolerated.

31. While priority attention must be given to gross violations of human rights resulting from colonialism, racism and foreign aggression and occupation, the right to development and the right to survival should not be neglected. The Working Group on the Right to Development should put forward concrete proposals

as soon as possible for promoting all-round social and economic development in developing countries.

32. The forthcoming fiftieth anniversary of the United Nations could be an important opportunity to rationalize the work of the Organization's human rights machinery. The way in which human rights bodies considered country situations should be changed. Selectivity, politicization and double standards should be eliminated. Consideration should be given to reducing the number of agenda items and unnecessary reports of the Commission on Human Rights. All human rights should be given equal treatment and overlapping should be avoided. The composition of the Commission should be changed to better reflect the composition of the international community, in accordance with the principle of equitable geographical distribution. Lastly, the question of participation by non-governmental organizations in the Commission's work should be reviewed in order to improve the Commission's efficiency.

33. His Government had always been committed to promoting and protecting the human rights and fundamental freedoms of the Chinese people. While maintaining social stability, China had experienced rapid, sustained economic growth and a considerable improvement in living standards over the past decade. That had laid a solid economic foundation for the enjoyment of human rights and had greatly broadened the scope of the human rights enjoyed by the population. The Government had also paid great attention to establishing democratic institutions and developing a legal system for the protection of human rights. As its socialist market economy developed further and its democracy and legal system improved, China was bound to make greater progress in promoting and protecting those rights. It stood ready to increase its cooperation with the international community in the field of human rights, in accordance with the purposes and principles of the Charter and on the basis of equality and mutual respect.

34. Ms. BUCK (Canada) stressed the need to ensure timely identification of human rights abuses before they escalated into widespread and serious violations. The United Nations human rights machinery should be fully integrated into preventive activities. Priority should be given to emergency procedures, and serious human rights violations should be brought to the attention of the High Commissioner, who bore crucial responsibility for taking appropriate action in response to such information. The current operation in Rwanda underlined the need for the various parts of the United Nations human rights system to work together in an integrated manner. The international community should ensure that the human rights component of the Rwanda operation, and of any similar future operation, had sufficient resources to be successful. The High Commissioner could not be expected to secure such resources by appealing for voluntary contributions.

35. Better coordination among United Nations human rights mechanisms was crucial to the implementation of the Vienna Declaration and Programme of Action. Canada supported the areas identified by the High Commissioner as priorities for further coordination and was pleased with the steps taken by the treaty monitoring bodies to coordinate their efforts and to work with the various special rapporteurs, representatives and working groups.

36. Cooperation between the human rights bodies and the rest of the United Nations system should also be enhanced. In that connection, Canada looked forward to the follow-up to the deliberations of the Administrative Committee on Coordination (ACC) on human rights operations and emphasized the importance of coordination in the areas of economic and social development. The Centre for Human Rights and the human rights bodies it serviced must further develop their expertise in addressing the human rights aspects of development. At the same time, if human rights bodies were to help improve living conditions around the world, they must work in tandem with the United Nations agencies, funds and programmes directly involved in development, especially the United Nations Development Fund (UNDP). There must be system-wide involvement in the delivery of technical assistance projects aimed at strengthening respect for human rights. The analyses made by human rights bodies in that field and their technical assistance and advisory services must complement, not duplicate, the work of other agencies.

37. Canada looked forward to the High Commissioner's involvement in and consideration of the conclusions of the Working Group of the Third Committee on the follow-up to the Vienna Conference. There appeared to be a general consensus in the Working Group that the United Nations human rights system urgently needed greater human and financial resources to implement the Vienna Declaration and Programme of Action. The High Commissioner should put forward practical, realistic proposals regarding the programme implications of that effort, and the Secretariat should play a constructive and cooperative role in that regard. Strengthening and expanding the United Nations human rights programme required additional resources in the short term, and increased cooperation among all parts of the system in the long term, in order to ensure a more coherent focus for human rights, more efficient use of resources and a more effective contribution by the United Nations to international peace, development and freedom.

38. Mr. AL-DOURI (Iraq), speaking in exercise of the right of reply, said that the representatives of Australia, New Zealand and Sweden had yet again accused his Government of human rights violations against the Kurds of northern Iraq. Their constant accusations were irrelevant to questions of human rights and could only be viewed as political. He wondered how it would be possible for the central Government to commit such violations when the Kurds of northern Iraq had been outside its jurisdiction for the past four years. His Government rejected the allegations as unfounded.

39. The representative of New Zealand had also accused the representative of Iraq of misleading the Third Committee. He recalled that imports to Iraq of medical supplies and foodstuffs were not prohibited. However, the representative of New Zealand, as Chairman of the Security Council Committee established by resolution 661 (1990), was well aware that even if the Iraqi Government followed the correct procedure regarding such imports, the failure of only one Member of that Committee to make a formal response to Iraq's application sufficed for a shipment to be interdicted, as had happened on numerous occasions. The New Zealand representative was also fully aware of Iraq's lack of financial resources, which meant that it could not import much

needed medical supplies and foodstuffs. Lastly, that representative knew full well that the Security Council Committee had prohibited the export of meat from the Sudan to Iraq, as well as imports to Iraq of school stationery and anything connected with agriculture. It was not he who had misled the Third Committee and he called on delegations to request the New Zealand representative to make public the secret decisions to which the Iraqi delegation had not been a party.

40. Mr. SLOKENBERGS (Latvia), speaking in exercise of the right reply, said that his Government was addressing, in full view of the international community, the problems resulting from its former occupation by the Soviet Union. International organizations were assisting with new legislation and Latvia was moving towards implementation of the Vienna Declaration and Programme of Action. The High Commissioner for Human Rights had visited Latvia and a National Human Rights Plan, developed with the help of the United Nations Development Programme and the Conference on Security and Cooperation in Europe (CSCE) would shortly be adopted. The Russian Federation's continued rejection of the conclusions of such international organizations undermined the effectiveness and authority of their human rights mechanisms, contrary to the "spirit of Vienna".

41. Mr. PARSHIKOV (Russian Federation), speaking in exercise of the right of reply, said that he had never doubted the ability of the United Nations, CSCE or the Council of Europe to reach correct solutions. It was the former Minister for Human Rights of Latvia, who was better placed than anyone to understand the situation, who had admitted that massive human rights violations were taking place. He reiterated his delegation's opinion that the Governments of Estonia and Latvia applied a policy of forcing non-citizens to leave the country. The former Minister, who was currently a deputy in the Latvian Parliament, had admitted that pressure had been brought to bear on him to "make life unbearable" for those people so that they would leave.

42. Mr. SLOKENBERGS (Latvia), speaking in exercise of the right of reply, said that the former Minister for Human Rights had been speaking in his private capacity, at a time when he was no longer a member of the Government. He had not, as the representative of the Russian Federation had said earlier, been forced out of office, but had resigned with the rest of the Government as a result of a government crisis. He had worked and continued to work for the promotion and protection of human rights.

AGENDA ITEM 100: HUMAN RIGHTS QUESTIONS (continued)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (continued) (A/49/40, 41 and 44; A/49/288-S/1994/827, A/49/261-E/1994/110, A/49/264-E/1994/113, A/49/364, 405, 408, 409, 426, 484 and Add.1, 537 and 642; A/C.3/49/5 and 6; E/1994/23)

(e) CAPITAL PUNISHMENT (continued) (A/49/234 and Add.1-2)

43. Mr. AL-RASSI (Saudi Arabia) said that the inclusion of capital punishment as an item on the agenda was a further attempt to give currency to so-called "universal concepts" without taking account of the cultural and religious

features or domestic laws of different countries. With reference to the penultimate preambular paragraph of the draft resolution contained in document A/49/234, he wondered whether the sponsors of the draft resolution had forgotten that ethnic cleansing was among the human rights violations committed in Bosnia and Herzegovina. Decisive measures were needed to deal with such crimes, which threatened the survival of the human race. Far from promoting full respect for human rights, the draft resolution conflicted with those rights by giving criminals the right to life and withdrawing that same right from their innocent victims, thereby encouraging further killing and human rights violations.

44. The draft resolution should be referred to the Sixth Committee, with the request that it recommend the establishment of an expert committee to make an analytical study of the issue, for submission to the General Assembly at its fifty-first session. In his own country, the capital punishment provided for under Islamic law was intended simply as a powerful deterrent to serious crime, which was fortunately rare. Any capital punishment imposed, however, was implemented according to specific conditions, the details of which were beyond the scope of the present discussion.

45. Mr. CASSAR (Malta) said that it was only natural that the discussion of capital punishment should arouse some emotion on the part of delegations, since opinions on the issue were influenced by millennial cultural conditions, moral values and concerns about the powers of the State in ensuring law and order. Those factors had been taken into consideration by the sponsors of the draft resolution contained in document A/49/234, rather than seeking to impose a set of values, simply invited Member States to reflect on the issue. It called upon them to consider acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights, a process upon which his Government had already embarked. The draft resolution also urged all States parties to comply fully with their obligations under that instrument, into which they had entered freely. The States concerned were invited to consider the progressive restriction of the number of offences liable to the death penalty. Once again, the sovereign right of States to decide on that sensitive issue had been fully respected and there was no justification for the accusation that the sponsors were attempting to foist their values and systems of justice on others. Such progressive restriction was a natural process in the evolution of national legislation and most societies had adopted it of their own free will.

46. Lastly, the draft resolution encouraged States which had not abolished the death penalty to consider instituting a moratorium on pending executions. His delegation would have preferred more affirmative language, but the sponsors had taken into account the particular concerns of a number of Member States in that connection.

47. The process of reflection on capital punishment called for by the draft resolution was both appropriate and necessary, for such punishment was absolute and irreversible and history abounded with cases where mistakes had been made in good faith in the administration of justice. At the same time, it was inappropriate to enter into a discussion as to whether there was a correlation between the enforcement of capital punishment and the containment of crime. His

delegation shared the view prevailing among criminologists that there was no conclusive evidence to confirm that the death penalty was a more effective deterrent to violent crime than long-term imprisonment. It therefore resented statements which implied that the sponsors of the draft resolution were indifferent to law and order or were failing to face up to their responsibilities. It was not their intention to proselytize or to put pressure on other Member States.

48. There was no doubt that the right to life was cherished by all Member States and that most were aware of their grave responsibilities where legislation stipulated the death sentence for the most serious crimes. Nevertheless, that did not allay concerns about the imposition of the death penalty in some countries for other, less serious crimes, for there was no objective criterion which justified the death penalty for any particular offence and such criteria were conditioned by countries' social mores, values and convictions.

49. While there was no intent to limit the power of States to decide on the matter, it must be admitted that the way in which the rights of States were viewed had evolved over the years. One example was the right to declare war: in the aftermath of the Second World War, the international community had undertaken to ensure the peaceful settlement of international disputes which might threaten peace and security. Faced with the only absolute, the loss of human life caused by the implementation of the death penalty, States must seek a common code of conduct.

50. It was 20 years since Malta had abolished capital punishment for ordinary crimes. Current legislation provided for the application of the death penalty to persons subject to the Malta Armed Forces Act, but only in exceptional and serious cases in times of war. His Government was looking at the possibility of ratifying the Second Optional Protocol and therefore understood the serious consideration which other States might give to the matter. Rather than impose views, the aim was to seek codes of behaviour which would bring peace of mind, given the intrinsic value of the life of each individual and the fact that no society was infallible.

51. Mr. HAMIDA (Libyan Arab Jamahiriya) said that while the international human rights instruments provided the foundation for the universal promotion and protection of all human rights, no progress could be made until those rights were respected by States and international organizations. It was therefore regrettable that some United Nations bodies were adopting resolutions that flagrantly violated fundamental human rights, demonstrating the absence of democracy within the United Nations and the dominance of certain States therein. Such resolutions would remain without credibility until democracy prevailed within the Organization, together with respect for its Charter and for the international human rights instruments. In that connection, although respect for the sovereignty of States was a cornerstone of international law, human rights were often used as a pretext for interference in their internal affairs and for waging political campaigns against the developing countries in

particular. No country had the right to claim superiority and impose its values and traditions on others.

52. With reference to the recommendations of the meetings of persons chairing the human rights treaty bodies, contained in the annex to document A/49/537, his delegation supported the streamlining and rationalization of reporting procedures. However, he doubted the usefulness of the recommendation in paragraph 18 concerning overdue reports, and instead advocated further efforts to find a solution to the problem. Since the preparation of reports imposed a particular burden on the developing countries, one possible solution was the submission of a unified report to all treaty bodies. He also rejected the recommendation in paragraph 27, since the mandate of the Security Council, as defined under the Charter, did not include the consideration of human rights issues. Moreover, since only States and the Secretary-General could bring matters to the Council's attention, the recommendation would require an amendment to the Charter.

53. On the subject of capital punishment, his country was seeking to arrive at a society free of poverty, oppression and other social ills, in which imposition of the death penalty would be unnecessary. With a view to its eventual abolition, capital punishment was imposed, in accordance with Islamic law, only as retribution or on persons who endangered or corrupted society. There should be no attempt to impose the abolition of capital punishment, which was still the sole deterrent to serious crimes such as murder. Libya believed that the matter should be left to the discretion of each individual society and therefore disagreed with the draft resolution in document A/49/234 and hoped that its sponsors would not insist on its consideration.

54. Mr. CATARINO (Portugal) said that his country had been a pioneer in the abolition of capital punishment. Its Constitution specified that in no case would the death penalty be applicable, and public opinion was clearly opposed to it. His delegation supported the view that capital punishment should be dealt with in a human rights framework, and attached particular importance to the Second Optional Protocol to the International Covenant on Civil and Political Rights.

55. Experience showed that resorting to the death penalty did not generally achieve the deterrent effect that was the main justification for its use. It should also be borne in mind that decision-making in criminal courts was subject to errors of judgement which could have tragic and irreversible consequences. Those countries which applied the death penalty should not see the current discussion as a tool to divide States or an attempt to interfere in their internal affairs. Progress on the subject depended on the will to engage in a full and unconstrained dialogue.

56. He appealed to those States which had not yet done so to become signatories to the relevant human rights instruments, and to those which still applied the death penalty to consider the progressive restriction of the number of offences for which it could be imposed, as well as the possibility of a moratorium on pending executions.

57. Mr. ELARABY (Egypt) emphasized the need for all States to accede to the major international human rights instruments, which Egypt had already ratified. Egypt's Constitution provided for fundamental human rights and freedoms, while the relevant authorities endeavoured to comply with the recommendations of the United Nations human rights treaty bodies designed to ensure that the country's internal legislation remained consistent with its international obligations. Steps were also under way to broaden cooperation with the Centre for Human Rights.

58. Capital punishment was intended not only to deter crime, but to compensate victims who had been deprived of the basic right to life. Any restriction on the State's role in exacting retribution on behalf of such victims would be a breach of the social contract under which individuals relinquished certain rights and freedoms in return for guarantees of material and spiritual welfare from the State. Punishment should also fit the crime, in which case the death penalty was the appropriate punishment for crimes which could not be compensated, such as those involving killing. His country was not alone in believing that the type of penalty which a country imposed should not be used as a measure of its respect for human rights. It was, moreover, illogical to recognize self-defence against an attacker as a fundamental right, even if the attacker died as a result, while simultaneously arguing that an attacker should not receive the death penalty if his attack led to the death of his victim.

59. Capital punishment in Egypt was subject to clear controls and safeguards. First, the death penalty was mandatory only for certain crimes and only if the court was unanimous in its verdict, which had to be delivered in the presence of the accused. Second, even in the absence of an appeal, all death sentences were referred to the Court of Cassation with a view to ascertaining that the law had been properly applied. Third, criminal courts were bound to seek the opinion of the Grand Mufti before delivering a death sentence, which was then subject to approval by the President, who could grant a pardon or commute the sentence. Fourth, the death sentence was not imposed on persons aged under 18 or on pregnant or nursing women. Lastly, due process of law was observed, in that criminal courts were legally bound to appoint a defence lawyer for the accused and to pay his fees.

60. He appreciated the views of those countries which had abolished capital punishment, but called on them to respect the position of States such as Egypt which still retained the death penalty. Egypt's position merely reflected another approach to human rights, in which the victim's right to retribution was recognized. Besides, capital punishment was a preventive measure and its ultimate objective was to protect the right to life.

61. Mr. REZVANI (Islamic Republic of Iran) said that the use of the death penalty had always aroused emotions of compassion and mercy which were deeply rooted in the Islamic system of criminal justice. However, Islam also recognized the legitimacy of applying capital punishment to a restricted number of the most serious crimes. Iran therefore imposed the death penalty for such crimes, in conformity with article 6 (2) of the International Covenant on Civil

and Political Rights, and provided appropriate safeguards to ensure that its application was subject to due process of law.

62. It was the sovereign right of every State to choose the most appropriate penal system, taking into account its society's cultural, religious and historical characteristics. His Government was unconvinced by the argument that capital punishment did not have a deterrent effect, believed that deterrence and retribution played a significant role in a complex world, and unequivocally opposed any effort to impose a particular system of justice.

63. Mr. OK (Cambodia) expressed his Government's gratitude for the United Nations human rights presence in Cambodia. World history had shown that respect for the rights of the individual, democracy, economic and social development and peace were interdependent and mutually reinforcing. Strengthening the relevant United Nations mechanisms was the only way to enable the peoples of the world to enjoy their inalienable rights.

64. A new Cambodia had emerged from the elections organized and supervised by the United Nations. His Government was now embarked on the complex and laborious task of strengthening peace, democracy and respect for human rights and preventing return to the policies and practices of the past. Reform and reconstruction efforts were also under way. Such progress had been made possible by the generosity of friendly countries and the help of the office of the Centre for Human Rights in Phnom Penh. The international assistance provided to that office was greatly appreciated.

65. A new Constitution had been adopted in Cambodia, guaranteeing a series of fundamental rights and freedoms and ensuring, inter alia, political pluralism, democracy, the independence of the judiciary and religious tolerance. His Government was determined to transform Cambodia into a civilized, democratic society, despite the numerous obstacles created by the Khmer Rouge, who continued to violate human rights. Khmer Rouge troops had been implicated in numerous cases of summary execution, rape, the laying of new anti-personnel mines and the use of civilians as human shields. Intervention by the international community was needed to remedy the situation.

66. After much debate, Cambodia's Constituent Assembly had concluded that the death penalty should be abolished, because of the risks of judicial error or abuse of power and because there had also been a tendency in the past to apply the death penalty to the poor and to ethnic minorities and to use it as an instrument of political repression. Besides, Cambodia's experience showed that the crime rate stayed the same after abolition. His delegation hoped that, by the twenty-first century, the death penalty would have been eliminated throughout the world.

67. Ms. de WET (Namibia) said that her Government had recently acceded, without reservations, to a number of human rights instruments, thereby demonstrating its strong commitment to the protection and promotion of human rights both internally and internationally. Public knowledge and understanding of human rights was also important. She therefore welcomed the launching of a United

Nations decade for human rights education and urged all Member States and observer missions to the United Nations to give the widest possible support to the plan of action proposed for that decade. Her Government was introducing human rights education into school curricula at all levels, to ensure that such values were not only enshrined in the Constitution but also given practical expression in society at large.

68. The historical perspective and the social, cultural and political reality of Namibia prior to independence had played a major role in shaping its Constitution. Her people believed the right to life to be the most fundamental human right. Capital punishment was therefore clearly and expressly banned by the Constitution. Namibia was also in the process of acceding to the Second Optional Protocol.

69. Ms. HORIUCHI (Japan) said that the question of whether to retain or abolish the death penalty should be carefully considered by each State, taking into account the sentiments of its people and the state of crime and criminal policy. In Japan, capital punishment was applied only to the most heinous crimes, such as mass murder, and always in accordance with the strictest judicial procedures. It was inappropriate to make universal decisions on the issue, which was why Japan had raised objections to the Second Optional Protocol to the International Covenant on Civil and Political Rights. In fact, it was because opinions were divided that the Protocol had not been incorporated into the Covenant: there had been no prospect that the international community would reach a consensus. His delegation would oppose any draft resolution which encouraged all Member States to consider abolition of the death penalty and the institution of a moratorium on pending executions.

70. Mr. OBEIDAT (Jordan) said that while the right of the human being to life - a fundamental, divine right on which all other human rights depended - must be preserved, a delicate balance must be struck between that right and the right of society to rid itself of crime and its perpetrators.

71. Islam guaranteed all human rights, particularly the right to life, but also provided strict penalties for aggression against the lives of others. Legislation differed from country to country, however, and no society had the right to impose its views on another. His country did not agree that abolishing capital punishment would enhance human dignity; otherwise, the same reasoning would apply to the abolition of arrest and imprisonment. It felt that capital punishment should be applied in the case of the most serious crimes, for that served as a deterrent.

72. The CHAIRMAN said that the Committee had concluded its general discussion of sub-item 100 (a) entitled "Implementation of human rights instruments" and sub-item 100 (e) entitled "Capital punishment". Human rights questions continued to give rise to controversy and the Committee had failed to reach a consensus on either sub-item. There had, nevertheless, been general agreement in some areas. With regard to sub-item 100 (a), the role played by the High Commissioner for Human Rights had generally been considered positive. Moreover, there had been agreement on the importance of providing the High Commissioner

with the necessary material, financial and human resources to fulfil his mandate effectively, and on the need to provide similar resources to other United Nations bodies dealing with human rights. Members had also generally endorsed the idea of cooperation between those bodies and the High Commissioner's Office in a framework which did not necessarily imply a hierarchical relationship.

73. Committee members had raised, but not necessarily reached agreement on a number of other issues, including the need for all States to ratify the principal human rights instruments and to withdraw any reservations thereto. The question-and-answer session which had followed the High Commissioner's introductory statement had been fruitful, and the Committee might envisage following the same procedure in future years.

74. With regard to sub-item 100 (e), the Committee had clearly been divided into two camps: those favouring the abolition of capital punishment and those wishing to retain it. Arguments in favour of abolishing the death penalty had been the following: States could not impose the death penalty as a means of reducing crime because there was no evidence that it had a deterrent effect; the right to life was the most basic human right and, consequently, States did not have the right to take the life of any individual; the death penalty sometimes veiled a desire for vengeance or provided an easy way of eliminating political opponents; the death penalty, once applied, could not be reversed in the event of judicial error; and capital punishment was excluded from the penalties used by international tribunals, including those established to deal with the situations in the former Yugoslavia and Rwanda, and should consequently become less prevalent in national legislation.

75. Arguments in support of maintaining the death penalty had been the following: certain legislative systems were based on religious laws; it was not possible to impose the ethical standards of a single culture on all countries; there was a need to discourage extremely serious crimes; and, in some countries, capital punishment was a constitutional or even a religious obligation.

76. At the same time, all members had agreed on certain fundamental points: the death penalty should be applied only in exceptional circumstances and subject to strict preconditions; and its scope of application should be extremely limited.

The meeting rose at 6.35 p.m.